

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HARMONY GOLD U.S.A., INC.,

Plaintiff,

v.

HAREBRAINED SCHEMES LLC,
HAREBRAINED HOLDINGS, INC.,
JORDAN WEISMAN, PIRANHA GAMES
INC., INMEDIARES PRODUCTIONS,
LLC, and DOES 1–10

Defendants.

CASE NO. 2:17-cv-00327-TSZ

**SUPPLEMENTAL DECLARATION
OF JESSICA STEBBINS BINA IN
SUPPORT OF HARMONY GOLD,
U.S.A., INC.’S OPPOSITION TO
MOTION FOR SUMMARY
JUDGMENT**

**NOTE ON MOTION CALENDAR:
DECEMBER 22, 2017**

I, Jessica Stebbins Bina, declare as follows:

1. I am an attorney at Latham & Watkins LLP, attorneys for plaintiff Harmony Gold U.S.A., Inc. (“Harmony Gold”), over eighteen years of age, and am competent to testify herein. I make this declaration in support of Harmony Gold’s opposition to defendants’ motion for summary judgment. The facts set forth below are based on my personal knowledge. If called as a witness, I could and would competently and truthfully testify to these matters.

1 2. I first communicated with defendants in this matter in or around early October
2 2017. At the time, I was not yet counsel of record for Harmony Gold. Instead, I was brought in
3 to provide facts due to my background as counsel of record in the Harmony Gold/Tatsunoko
4 arbitration. I understood at the time that the parties were engaged in settlement negotiations and
5 an accompanying informal stay of discovery.

6 3. During the course of my early conversations with defendant Piranha's counsel,
7 counsel stated that they believed Harmony Gold did not possess standing to pursue its
8 infringement claims in this matter. Counsel asked for documentation relating to Harmony
9 Gold's ownership claims. I provided such documentation. However, I also informed counsel
10 that there were additional third party materials that would need to be sought through discovery.
11 In this context, I explained to counsel for Piranha that it did not make sense for me to pursue
12 third party discovery (during settlement discussions and an informal discovery stay) if we could
13 reach resolution of the matter without such third party discovery.

14 4. To the best of my recollection, I never stated or suggested that I would seek such
15 discovery *only* in response to a dispositive motion. Nor would I have made such a statement,
16 because I always understood that such discovery would be needed if Piranha continued to
17 challenge Harmony Gold's standing in this case. To the contrary, my statement regarding the
18 time and expense of discovery was made in the context of what I understood to be settlement
19 discussions and an informal, agreed-upon discovery stay.

20 5. I became counsel of record in this case at the end of October 2017.
21 Approximately one week later, on November 8, 2017, counsel for Piranha informed me that
22 Piranha intended to move for summary judgment on the issue of standing. In response, I
23 specifically informed Piranha that such a motion would be contrary to the facts as I understood
24 them, and that I intended to use both formal and informal means to try to obtain the third party
25 evidence needed to rebut Piranha's argument.

Signed this 27th day of December, 2017, at Los Angeles, California.

**SUPPLEMENTAL DECL. OF STEBBINS BINA IN
SUPPORT OF HARMONY GOLD'S SURREPLY AND
MOTION TO STRIKE (Case No. 2:17-cv-00327-TSZ) - 3**

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 27, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants.

DATED this 27th day of December, 2017.

s/ Mary J. Klemz

Mary J. Klemz